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WEST PALM BEACH, FL 33401			ART UNIT	PAPER NUMBER
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			08/11/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/730,851

Applicant(s)

BRAMNICK ET AL.

Examiner

AKIBA K. ROBINSON BOYCE

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 27-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 27-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. Due to communications filed 7/21/09, the following is a final office action. Claims 9-26 are cancelled. Claims 1-8 are pending in this application, and have been examined on the merits. Claims 27-36 are new. Claims 1-8, 27-36 are rejected as follows. The finality of the previous action has been withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8, 27-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slivka et al (US 2003/0225600), and further in view of Kenigsberg et al (US 2003/0036928 A1),

As per claims 1, 27, 29, Slivka et al discloses:

Receiving a booking request from a passenger/means for receiving..., ([0048], rebooking request);

Determining at least one rebooking flight candidate according to rebooking rules based on passenger data for said passenger and flight operations data/means for

determining...; ([0034], lines 1-8, passenger information obtained, w/[0014], shows disrupted passengers are re-accommodated, and a disrupted passenger is unable to travel on a scheduled flight on a carrier, w/ shows a ranking of certain types of passengers, and this table is used by the rules engine when performing the re-accommodation process as shown in [0026]);

Slivka et al does not specifically disclose presenting the determined at least one rebooking flight candidate to said passenger with an incentive for encouraging the passenger to select a rebooking flight candidate preferred by the carrier/means for presenting..., however, in [0028], discloses a monitor which is used to present a notification of re-accommodations.

However, Kenigsberg et al discloses an e-commerce system that increases revenues of a travel products supplier on a per product use basis, wherein alterable based products may comprise rebooking a traveler onto another mutually acceptable departure as shown in claim 7 or Kenigsberg. Kenigsberg also discloses a system that can offer the passenger a number of alternative incentives-financial, a class upgrade, points accumulation, another cheap ticket, a deal of some sort, payment plan, etc for the purpose of minimizing the cost to the airline while maximizing the chances that the passenger will agree to exchange their ticket as shown in [0112] and [0126] shows the system offering these incentives. It therefore would have been obvious to combine the teachings of Slivka et al and Kenigsberg et al to disclose presenting the determined at least one rebooking flight candidate to said passenger/means for presenting... with

an incentive for encouraging the passenger to select a rebooking flight candidate preferred by the carrier.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to present the determined at least one rebooking flight candidate to said passenger with an incentive for encouraging the passenger to select a rebooking flight candidate preferred by the carrier with the motivation of giving the passenger the option of selecting an alternate flight.

Slivka et al does not specifically disclose prompting said passenger to select one of said presented at least one rebooking flight candidate/means for prompting... but does disclose the determination of alternative itineraries based on passenger data in [0044], and subsequently rebooking a passenger as shown in [0046], and discloses an output file, which is accessed by a re-accommodation driver that attempts to rebook as shown in [0045]. Slivka et al also discloses that a personal computer, and a monitor is included in the re-accommodation computer in [0019] and Fig. 1, thereby implying travel accommodations being selected by a passenger.

However, Kenigsberg et al discloses offering the incentives for ultimate selection by the passenger in [0126]. It therefore would have been obvious to combine Slivka et al with Kenigsberg et al to disclose prompting said passenger to select one of said presented at least one rebooking flight candidate. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to disclose prompting said passenger to select one of said presented at least one rebooking flight candidate/means

for prompting... with the motivation of giving the passenger an indication of alternate options.

Slivka et al does not specifically disclose rebooking said passenger on the selected rebooking flight candidate/means for rebooking..., however does disclose the determination of alternative itineraries based on passenger data in [0044], and subsequently rebooking a passenger as shown in [0046].

However, Kenigsberg et al discloses confirmation by the passenger of offered incentives in [0127], and then arranging a compensation due by automatic coordination of a new flight time as a result of confirmation as shown in [0128]. It therefore would have been obvious to combine the teachings of Slivka et al and Kenigsberg et al to disclose rebooking said passenger on the selected rebooking flight candidate. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to rebook said passenger on the selected rebooking flight candidate/means for re-booking... with the motivation re-accommodating the passenger.

As per claims 2, 30, Slivka et al discloses that criteria comprises frequent flyer status in Claim 3 (of Slivka).

Slivka et al does not specifically disclose the following, but does disclose that a passenger with a higher value is presented with more flight options since there is an advantage of being rebooked for a flight with a flight time closer to the delayed flight, and the passenger with lower passenger value gets booked on a remaining flight that is not as close to the original delayed flight time. In this case, the passenger with the higher value has a greater number of flights to choose from since he is first presented

with the closer flight, but then has the option to decline and choose an alternative flight, where the passenger with the lower value only has an option of being booked on the flight that is the next available, thereby making the following obvious:

wherein said presenting step comprises decreasing a number of said rebooking flight candidates presented to said passenger failing to meet criteria for high passenger value...

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to disclose wherein said presenting step comprises decreasing a number of said rebooking flight candidates presented to said passenger failing to meet criteria for high passenger value with the motivation of providing passengers with high passenger value a greater chance to rebook than passengers with lower passenger value.

As per claims 3, 31, Slivka et al discloses:

wherein said passenger data of said passenger is compared to passenger data of at least one other passenger in need of rebooking, and said passenger is offered rebooking flight candidates based upon said comparing step/further comprising means for comparing said flight operations data for said rebooking flight candidates/compares passenger data with flight operations data for said rebooking flight candidates, ([0015], and [0050], compared to other passengers/customers).

As per claims 4, 32, Slivka et al discloses:

wherein said passenger data is provided substantially real time, ([0048], real time).

As per claims 5, 7, 33, 35, Slivka et al discloses:

wherein said presenting step comprises presenting high remaining unflown value flight rebooking candidates and not presenting rebooking flight candidates with lower unflown values/wherein said passenger data comprises the remaining unflown ticket value for said passenger ([0052], shows a re-accommodation process where based on passenger value, higher value is booked).

As per claims 6, 34, Slivka et al discloses:

wherein said presenting step comprises offering said passenger incentives for selecting rebooking flight candidates with high remaining unflown value, ([0004], lines 22-26, shows example of rewards).

As per claims 8, 36, Slivka et al discloses:

wherein said passenger data comprises passenger loyalty data, (Claim 3, frequent flyer status).

As per claim 28, Slivka et al discloses:

wherein said means for presenting the determined at least one rebooking flight candidate is a telephone-based voice response unit comprising a text-to-speech system for presenting said flight candidates to said passenger and at least one among a speech recognition system and a dual tone multi-frequency recognizer system for receiving flight selection information from said passenger, ([0028], voice enabled messages, [0048], telephone).

Response to Arguments

4. Applicant's arguments filed 7/21/09 have been fully considered but they are not persuasive.

Applicant argues that prior art used does not disclose presenting the determined at least one rebooking flight candidate to said passenger with an incentive for encouraging the passenger to select a rebooking flight candidate preferred by the carrier. However, it is the combination of Slivka and Kenigsberg that discloses this limitation. Although true that Slivka does not specifically disclose the above limitation, Slivka does disclose in [0028], a monitor which is used to present a notification of re-accommodations. This paragraph was cited only to show that it was possible for Slivka's system to present re-booking information to the passenger. In [0035] of Slivka, it is also shown that databases may be maintained by individual travel service providers (i.e., carriers), and thus, may vary based on the business practices of each individual carrier, which suggests that re-booking is preferred carrier. However, Kenigsberg was cited to show the selection process by the passenger of re-accommodation options, where these options are presented to the passenger. Applicant argues that Kenigsberg concerns offering incentives to Type B customers for them to give away their tickets, which is completely different from presenting a list of determined rebooking flight

candidates to the passenger with an incentive for encouraging the passenger to select a rebooking flight candidate preferred by the carrier, as in the present invention. However, although true that Kenigsberg does offer an incentive to give up a seat on a flight, in [0112] and [0126] of Kenigsberg, it is shown that the system can offer the passenger a number of alternative incentives-financial, a class upgrade, points accumulation, another cheap ticket, a deal of some sort, payment plan, etc. Since the incentive includes a class upgrade, this suggests incentive for re-booking for a higher class on a flight. In this case, there is both an incentive to give away the seat on a flight, and to re-book to a class upgrade.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 571-272-6734. The examiner can normally be reached on Monday-Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

•Patent Application Information Retrieval (PAIR) system, Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

A. R. B.
August 7, 2009

/Akiba K Robinson-Boyce/
Primary Examiner, Art Unit 3628

